



The issue whether claimant's present need for medical treatment is the result of an accident which arose out of and in the course of employment with the respondent was not raised before the Administrative Law Judge at the preliminary hearing in question and, therefore, the Appeals Board is without authority at this time to address it. See K.S.A. 44-555c, as amended.

Although the Appeals Board is without jurisdiction at this stage of the proceeding to reweigh the evidence to determine if claimant should be considered temporarily and totally disabled, under K.S.A. 44-551, as amended, the Appeals Board can address the issue whether the Administrative Law Judge exceeded his authority in awarding the payment of temporary total disability benefits. The Appeals Board finds the Administrative Law Judge did not exceed his authority by ordering payment of those benefits. The preliminary hearing statute, K.S.A. 44-534a, specifically empowers an administrative law judge to order temporary total disability benefits.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the preliminary hearing order dated October 14, 1997, entered by Administrative Law Judge Robert H. Foerschler should be, and hereby is, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of December 1997.

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BOARD MEMBER

c: Leah Brown Burkhead, Mission, KS  
Jeff K. Cooper, Topeka, KS  
Robert H. Foerschler, Administrative Law Judge  
Philip S. Harness, Director